

MINUTES OF COUNCIL

May 8, 2017

4:00 P.M.

The Murray City Council met in special called session Monday, May 8, 2017, at 4:00 p.m. in the Council Chambers of City Hall with Mayor Jack Rose presiding.

Council Members Present: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker

Council Members Absent: Pat Scott, Burton Young

Staff Present: Devin Bannister, KLC Attorney Stacey Blankenship, City Attorney Warren Hopkins, Greg Molinar, Cathy Morris, Jim Osborne, Chief Pologruto

Mayor Rose welcomed Council members and called the meeting to order.

Mr. Bell moved for Council to enter executive session in accordance with KRS 61.810 (1) (F) for the purpose of deliberations regarding a disciplinary proceeding; **Mr. Bohannon seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker (4:03 p.m.)

Nays: None

Mr. Bohannon moved for Council to leave executive session; **Seconded by Mr. Roberts.** All present voted aye. (8:00 p.m.)

- Mayor Rose recognized City Attorney Warren Hopkins who presented the following Findings of Fact for City Council approval:

Finding of Fact 1, that the Respondent, Devin Bannister, by and through his counsel, has waived the timeliness of the hearing on the original charges and any and all supplemental charges filed, as stipulated in KRS 95.450(4). **Mr. Bohannon moved; Mr. Roberts seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker

Nays: None

Finding of Fact 2, that the Respondent, Devin Bannister, at least two (2) days, prior to this hearing, received a copy of the charges and a statement of the date, place and hour at which a hearing of the charges will begin. **Mr. Hudspeth moved; Mr. Pittman seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker

Nays: None

Finding of Fact 3, that the Respondent, Devin Bannister, has been given at least five (5) days prior to the hearing, a list of all witnesses and all available documentary or tangible evidence to be used at the hearing and has been afforded the right to inspect same, either in person, or through his counsel. **Dr. Miller moved; Mr. Bell seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

Finding of Fact 4a, that the Respondent, Devin Bannister, was charged in violation of the City of Murray Personnel Policies and Procedures; City of Murray Code of Ordinances, specifically Chapter 33, §33.20(B) and §33.22; Chapter 39, §39.10, §39.13 and §39.14; and Rules adopted for the City of Murray Fire Department. With adherence to the principle of progressive discipline, and applying the evidence presented by the parties, the Respondent, Devin Bannister is found as follows:

- A. That the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F.2 b(1)(a)(i) by lying, constituting misconduct under COUNT I - DISHONESTY, THEFT, AND FAILURE TO KEEP ACCURATE TIME CARDS. **Mr. Hudspeth moved; Mr. Roberts seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

Finding of Fact 4b, that the Respondent violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F.2 c(1)(a)(i) by deliberately making or using falsified records, constituting misconduct, inefficiency, violation of law and violation of the rules adopted for the Fire Department under COUNT I - DISHONESTY, THEFT, AND FAILURE TO KEEP ACCURATE TIME CARDS. **Mr. Bohannon moved; Ms. Shoemaker seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

Finding of Fact 4c, that the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F.2 c(1)(d) by failing to keep accurate time cards, constituting misconduct, inefficiency, violation of law and violation of the rules adopted for the City of Murray Fire Department under COUNT I - DISHONESTY, THEFT, AND FAILURE TO KEEP ACCURATE TIME CARDS. **Mr. Pittman moved; Ms. Shoemaker seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

Finding of Fact 4d, that the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F.2 a(1)(c)(iii) by leaving his assigned work area without permission, constituting insubordination, inefficiency, misconduct and violation of the rules adopted for the City of Murray Fire Department under COUNT II – NEGLECT OF DUTY. **Ms. Shoemaker moved; Mr. Roberts seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: Dan Miller

Finding of Fact 4e, that the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F.2 a(1)(c)(v) by stopping work before specified time, constituting insubordination, inefficiency, misconduct and violation of the rules adopted for the City of Murray Fire Department COUNT II – NEGLECT OF DUTY. **Mr. Bohannon moved; Ms. Shoemaker seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

Finding of Fact 4f, that the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F.2 c(1)(b) by his immoral and improper conduct, constituting insubordination, inefficiency, misconduct and violation of the rules adopted for the City of Murray Fire Department under COUNT III – IMMORAL OR IMPROPER CONDUCT. **Ms. Shoemaker moved; Mr. Bohannon seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Jason Pittman, Jane Shoemaker
Nays: Dan Miller, John Mark Roberts

Finding of Fact 4g, That the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F.2 c(1)(f) by performing on-duty and off-duty activities that discredit the Respondent and the City of Murray Fire Department and constitute insubordination, inefficiency, misconduct and violation of the rules adopted for the City of Murray Fire Department under COUNT IV – DISCREDIT/INEFFICIENCY. **Mr. Pittman moved; Mr. Roberts seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

Finding of Fact 4h, That the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.N by violating the City of Murray's Outside Employment Policy by leaving work to attend meetings for his employment with the Calloway County Jail, constituting insubordination, inefficiency, misconduct and violation of the rules adopted for the City of Murray Fire Department under COUNT V – VIOLATION OF OUTSIDE EMPLOYMENT POLICY. **Mr. Bell moved; Ms. Shoemaker seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

Finding of Fact 4i, that the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.T by violating the City of Murray's Status of Scheduled Work Time Policy by leaving work without permission and responding to calls for the Calloway County Fire Rescue, while on the clock for the Murray Fire Department, constituting insubordination, inefficiency, misconduct and violation of the rules adopted for the City of Murray Fire Department under COUNT VI – VIOLATION OF STATUS OF SCHEDULED WORK TIME POLICY. **Mr. Roberts moved; Ms. Shoemaker seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, John Mark Roberts, Jane Shoemaker
Nays: Dan Miller, Jason Pittman

Finding of Fact 4j, that the Respondent, Devin Bannister, violated the City of Murray Personnel Policies and Procedures Manual, specifically Part III.F 2d(2)(g) by the misrepresentation of facts or falsification of documents provided to the City of Murray Fire Department, including, but not limited to, misrepresentation on the Respondent's application for employment, constituting misconduct and violation of law and violation of the rules adopted for the City of Murray Fire Department under the Complainant's SUPPLEMENT TO STATEMENT OF CHARGES. **Ms. Shoemaker moved; Mr. Bohannon seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

City Attorney Warren Hopkins then presented a termination finding as follows:

THEREFORE, it is the Order of this Council that Devin Bannister shall be terminated from his employment with the City of Murray Fire Department effective this date. Pursuant to KRS 95.450(8), the Respondent, Devin Bannister, shall have the right to appeal this decision to the Calloway Circuit Court under KRS 95.460. **Mr. Roberts moved; Ms. Shoemaker seconded.** Mayor Rose called for a roll call vote.

Ayes: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Jane Shoemaker
Nays: None

With no other business before the Council, **Mr. Billington moved** to adjourn; **seconded by Mr. Bohannon.** All members present voted aye. The meeting adjourned at 8:15 p.m.

Jack Rose, Mayor

ATTEST:

Jim Osborne, City Clerk